

AMENDED IN SENATE SEPTEMBER 7, 2005

AMENDED IN SENATE APRIL 5, 2005

**SENATE BILL**

**No. 1010**

**Introduced by Senator Florez**

February 22, 2005

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An act to add Section 10025 to the Public Utilities Code, relating to rail service.

LEGISLATIVE COUNSEL'S DIGEST

SB 1010, as amended, Florez. Rail service: City of Shafter.

Existing law authorizes municipal corporations to acquire, construct, own, operate, or lease any public utility.

This bill would authorize the City of Shafter to use certain locomotive units owned by or in the possession of the state, to operate unit intermodal railroad service between the City of Shafter and the Port of Oakland. The bill would authorize the City of Shafter to contract with a railroad, ~~railroad corporation, owner, or operator of a rail line, that is engaged in the business of transporting passengers and freight and that is a rail carrier providing transportation~~ subject to the jurisdiction of the federal Surface Transportation Board, to permit that railroad, ~~railroad corporation, owner, or operator of a rail line,~~ to operate *such* a locomotive unit, *or other locomotives acquired or leased by the city*, to provide intermodal railroad service between the City of Shafter and the Port of Oakland, and to provide financial or other support for ~~this purpose~~ *rail carries seeking access to specified tracks and facilities. The bill would authorize the City of Shafter to establish a separate governing body for the purpose of operating an intermodal rail facility and to obtain financing as prescribed. The bill would require the City of Shafter to use all revenues received from the*

*operations of an intermodal rail facility solely for public or municipal purposes, as defined.*

*The bill would require a freight railroad that owns or operates a line in the state to prepare and submit a report on track utilization and capacity to the Department of Transportation and the State Air Resources Board, commencing on July 1, 2006, and annually thereafter. The bill would require the department, on or before March 1, 2006, to develop procedures to define and report track utilization and capacity.*

*The bill would require the State Air Resources Board, on or before July 1, 2006, to adopt regulations to require a railroad owning or operating a line between the Port of Oakland and the City of Shafter to contribute to the reduction of air pollution, as described.*

The bill would declare that, due to the special circumstances applicable only to the City of Shafter, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. (a) Rail carriers that own or operate railroad
- 2     lines in the state may have sufficient available unused capacity
- 3     on those lines to permit the movement of additional trains or
- 4     traffic over those lines without unreasonably interfering with the
- 5     ability of the owner or operator to provide safe and efficient
- 6     service to its existing customers.
- 7     (b) It is the policy of this state to encourage owners or
- 8     operators of rail lines with available unused capacity to permit
- 9     the use of these lines for international traffic that originates in,
- 10    or is destined for consumption, manufacturing, warehousing or
- 11    other value-added purposes within, the state, or to permit other
- 12    rail carriers to use the lines to move traffic via rail that would
- 13    otherwise move over highways, thus reducing congestion on the
- 14    roads and contributing to reductions in air and noise pollution.
- 15    (c) The public interest is served by arrangements as described
- 16    in subdivision (b).

1     *SEC. 2. Section 10025 is added to the Public Utilities Code,*  
2     *to read:*

3     *10025. (a) The City of Shafter is hereby authorized to do all*  
4     *of the following:*

5         *(1) Use any locomotive units owned by or in the possession of*  
6         *the state at times that those locomotive units are not in use for*  
7         *commuter or intercity passenger rail or other regularly*  
8         *scheduled rail service, to operate unit intermodal trains, whether*  
9         *loaded or empty, or both, between the California Integrated*  
10        *Logistics Center and the Port of Oakland.*

11        *(2) Enter into a contract with any railroad that is a rail*  
12        *carrier providing transportation subject to the jurisdiction of the*  
13        *federal Surface Transportation Board to permit that railroad to*  
14        *use the locomotives described in paragraph (1), or other*  
15        *locomotives that the City of Shafter may acquire or lease, for the*  
16        *purpose of operating unit intermodal trains, whether loaded or*  
17        *empty, or both, between the City of Shafter and the Port of*  
18        *Oakland, and between each of the terminal facility points*  
19        *between Shafter and Oakland.*

20        *(3) Provide financial or any other form of support to any rail*  
21        *carrier that seeks authority from the federal Surface*  
22        *Transportation Board to do either of the following:*

23            *(A) To use, pursuant to Section 11102(a) of Title 49 of the*  
24            *United States Code, the terminal facilities or main line tracks for*  
25            *a reasonable distance outside of a terminal owned or operated*  
26            *by another rail carrier.*

27            *(B) To otherwise seek authority to use tracks and facilities of*  
28            *another rail carrier when the purpose of that application for*  
29            *authority from the federal Surface Transportation Board is to*  
30            *secure the ability to move intermodal unit trains, whether loaded*  
31            *or empty, or both, between the City of Shafter and the Port of*  
32            *Oakland.*

33        *(4) Establish a separate governing body, in whichever form it*  
34        *determines to be most appropriate, for the purpose of operating*  
35        *an intermodal rail facility within the City of Shafter, and any*  
36        *governing body so established shall be created, organized, and*  
37        *maintained in a manner that complies with all applicable laws,*  
38        *including, but not limited to, the charter amendment procedures*  
39        *provided for under state law, as applicable.*

1 (5) Obtain financing, or enter into other leases or contracts  
2 relating to the financing, construction, operation, or use of an  
3 intermodal rail facility. If required, the City of Shafter may take  
4 reasonable steps, including, but not limited to, the pursuit of  
5 charter amendments or other authorization under law, to obtain  
6 that financing or to enter into contracts necessary for the  
7 financing, construction, operation, or use of an intermodal rail  
8 facility.

9 (b) The City of Shafter shall use all revenues received from the  
10 operations of an intermodal rail facility as described in  
11 subdivision (a) above, if any, solely for public or municipal  
12 purposes. As used in this subdivision, "public or municipal  
13 purposes" means any purpose that the legislative body of the  
14 City of Shafter determines to be for the benefit of the operation  
15 and development of the intermodal rail facility, the citizenry of  
16 the City of Shafter as a whole, or the City of Shafter in its  
17 capacity as a municipal corporation.

18 (c) A freight railroad that owns or operates a line in the state  
19 shall prepare and submit to the Department of Transportation  
20 and the State Air Resources Board, on or before July 1, 2006,  
21 and annually on or before July 1 thereafter, a report on track  
22 utilization and capacity to provide data to be used for the  
23 regulation of air pollution and other purposes within the  
24 authority of the Department of Transportation and the State Air  
25 Resources Board. On or before March 1, 2006, Department of  
26 Transportation shall develop procedures to define and report  
27 track utilization and capacity.

28 (d) On or before July 1, 2006, the State Air Resources Board  
29 shall adopt regulations pursuant to Section 39601 of the Health  
30 and Safety Code to require a railroad owning or operating a line  
31 between the Port of Oakland and the City of Shafter to contribute  
32 to the reduction of air pollution, allowing for the increased use of  
33 rail lines along this corridor to transport intermodal trains,  
34 whether loaded or empty, or both, between the Port of Oakland  
35 and the City of Shafter, and between each of the terminal facility  
36 points between Shafter and Oakland, to supplant existing truck  
37 traffic, as authorized by Sections 110 and 116 of the federal  
38 Clean Air Act (42 U.S.C. Secs. 7410 and 7416).

39 (e) This section shall be effective notwithstanding any other  
40 provision of law and to the extent permissible under federal law.

*This section does not authorize the State Air Resources Board to adopt any regulation that is within the scope of preemption established in Section 209(e) of the federal Clean Air Act (42 U.S.C. Sec. 7543(e)) and Section 85.1603 of Title 40 of the Code of Federal Regulations.*

*(f) If any provision of this section or the application thereof to any person or circumstance is held invalid, it is the intent of the Legislature that the invalidity not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.*

~~SECTION 1. The Legislature finds and declares all of the following:~~

~~(a) Railroads that own or operate lines in the state may have sufficient available unused capacity on those lines to permit the movement of additional trains or traffic over those lines without unreasonably interfering with the ability of the owner or operator to provide safe and efficient service to its existing customers.~~

~~(b) It is the policy of the state to encourage owners or operators of rail lines with available unused capacity to permit other railroads to use those lines to move freight and passengers that would otherwise be moved over the state's streets and highways, thus reducing congestion on the roads and highways and reducing air and noise pollution.~~

~~(c) The public interest is served by arrangements whereby railroads that own or operate rail lines with available unused capacity permit other railroads to use those lines to move freight and passengers that would otherwise be moved over the state's streets and highways.~~

~~SEC. 2. Section 10025 is added to the Public Utilities Code, to read:~~

~~10025. (a) The City of Shafter may use any locomotive units owned by or in the possession of the State of California at times that the locomotive units are not in use for commuter or intercity passenger rail or other regularly scheduled rail service, to operate unit intermodal railroad service between the City of Shafter and the Port of Oakland.~~

~~(b) The City of Shafter may contract with a railroad, railroad corporation, owner, or operator of a rail line, that is engaged in the business of transporting passengers and freight and subject to~~

1 the jurisdiction of the federal Surface Transportation Board, to  
2 permit that railroad, railroad corporation, owner, or operator of a  
3 rail line, to operate a locomotive unit pursuant to subdivision (a).

4 (e) The City of Shafter may provide financial or other support  
5 to a railroad, railroad corporation, owner, or operator of a rail  
6 line engaged in the business of transporting passengers and  
7 freight and subject to the jurisdiction of the federal Surface  
8 Transportation Board, that seeks authority from the board to  
9 operate a locomotive unit pursuant to subdivision (b), including  
10 the authority to reasonably operate the locomotive unit over rail  
11 lines owned or operated by another.

12 SEC. 3. The Legislature finds and declares that, because of  
13 the unique circumstances applicable only to the City of Shafter, a  
14 statute of general applicability cannot be enacted within the  
15 meaning of subdivision (b) of Section 16 of Article IV of the  
16 California Constitution. Because of its proximity to agricultural  
17 production, proximity to import and export distribution locations,  
18 and existing rail line infrastructure, the City of Shafter is  
19 uniquely situated to provide integrated logistical railroad service  
20 to serve both domestic and international needs in a manner that  
21 will relieve congestion in the state's harbors and on its highways.  
22 Therefore, this special statute is necessary.